USTELECOM
THE BROADBAND ASSOCIATION

June 29, 2018

Ex Parte

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Re: Connect America Fund, WC Docket No. 10-90

Dear Ms. Dortch:

USTelecom hereby proposes an updated methodology for distributing universal service funds to support voice telephony service obligations in high cost and extremely high cost price cap areas that are not and will not be otherwise supported via the Connect America Fund Phase II (CAF II) program. USTelecom and several of its members have previously submitted proposals regarding the similar concept of how the Commission should support price cap incumbent local exchange carriers' (ILEC) provision of voice services for unfunded locations, not subject to the Commission's voice eligible telecommunications carrier (ETC) forbearance, in states where the carrier had accepted the offer of model-based CAF II support.[1] The proposal we submit today encapsulates those areas but also expands to encompass other high cost areas that will remain unsupported after the CAF II Auction. This expansion required a fresh look towards a simple and readily implementable interim proposal.

The Need for a High Cost Voice Support Program

The time is ripe for Commission action to establish an interim program to support voice service in unfunded high cost and extremely high cost areas within price cap carriers' ETC service territories. Questions surrounding whether and how the Commission should support price cap ETCs for their ongoing voice service obligations in non-CAF II-funded high cost and extremely high cost census blocks have been pending since 2014.[2] The U.S. Court of Appeals

[1] *See* Letter from Jonathan Banks, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 10-90 (Apr. 3, 2015) (proposing a CAF Frozen Support allocation method); Letter from L. Charles Keller, Counsel to CenturyLink and Frontier Communications, to Marlene H. Dortch, FCC, WC Dkt. No. 10-90 (Feb. 23, 2016) (CenturyLink/Frontier Ex Parte); Letter from Jonathan Banks, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 10-90 (Mar. 21, 2016); Letter from Jonathan Banks, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 10-90 (Mar. 23, 2018).

[2] *Connect America Fund*, Report and Order, 29 FCC Rcd 15644, 15664 para. 52 (2014) ("Effectively, as a result of this limited forbearance, price cap carriers that accept the state-level commitment for Phase II support will continue to have a federal high-cost universal service obligation to offer voice telephony services in those census blocks that are deemed to be extremely high cost, unless and until they are replaced by another ETC in those areas.") (*2014 Order*).

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for the D.C. Circuit recently upheld the Commission's previous decision to "retain[] some preexisting obligations . . . before the modernized program is fully in effect."[3] The court noted that "[f]or many census blocks, a new ETC will be selected via auction on July 24, 2018."[4] While a CAF II Auction ETC may be selected for "many census blocks," even with a successful auction it is unlikely that a replacement ETC will be selected for a sizeable number of high cost and extremely high cost census blocks, leaving the current price cap ILEC as the ETC with an obligation to provide voice service in those areas.[5] The court accepted that "[t]he agency did not want to devote significant resources to overhaul the preexisting system for a short, interim period when it is about to be replaced by the new regime,"[6] but given the end of that interim period is fast approaching, it is now appropriate for the Commission to address the issue as it transitions into a post-CAF II Auction regime.[7]

Commission action is further appropriate at this time because the universe of census blocks for which there will be voice telephony service obligations will be fully known in the very near future. Previous USTelecom proposals had focused on the support and obligations of price cap carriers that accepted the state-level commitment for CAF II support. Yet after the CAF II Auction, the Commission will need to determine a path forward not only for that situation, but also for price cap ILECs that declined the state-wide commitment. Once the status of the CAF II Auction census blocks is determined, price cap ILECs will have an unfunded ETC obligation to provide voice service in areas where they were not replaced as the ETC.

Proposal Details

<u>The Supported Service and Areas Eligible for Support</u>

USTelecom asks the Commission to reaffirm its commitment to basic voice communications for American consumers in high cost and extremely high cost areas pending the implementation of future CAF programs to complete the transition to more modern broadband communications.[8] Specifically, USTelecom proposes for the Commission to provide USF

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[3] *AT&T, Inc. v. FCC*, 886 F.3d 1236, 1239 (D.C. Cir. 2018).

[4] *Id.* at 1240. The court cited the FCC's Public Notice scheduling the CAF II Auction for July 24, 2018, in emphasizing this date. *Id.*

[5] As described below, AT&T has relinquished its ETC designation in many of these census blocks and no longer has ETC obligations in these census blocks. *See infra* n. 16.

[6] *Id.* at 1241.

[7] *See also Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. 160(c) from Enf't of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks*, 31 FCC Rcd 6157, 6215 n. 365 (2015) (noting the interim period for which price cap ILECs will have unsupported voice obligations) (*2015 Forbearance Order*).

[8] C*onnect America Fund et al*., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17680, para. 49 (2011), aff'd sub nom In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (*USF-ICC Reform Order*) ("The first performance goal we adopt is to preserve and advance universal availability of voice service. In doing so, we reaffirm our commitment to ensuring that all Americans have access to voice service while recognizing that, over time, we expect that voice service will increasingly be provided over broadband networks.").

funding to price cap ILEC ETCs in discharge of their ETC voice telephony service obligation in the supported area.[9]

Next the Commission should decide which high cost and extremely high cost census blocks are eligible for voice support. USTelecom proposes for the Commission to begin its analysis with the list of census blocks eligible for bid in the CAF II Auction, which represents the universe of high cost and extremely high cost census blocks without access to broadband service that satisfies CAF II public interest obligations in price cap territories except New York[10] and Alaska.[11] To this list, the Commission should add the high cost and extremely high cost census blocks that remain in New York and the extremely high cost census blocks that remain in the Alaskan service territories of the Alaska Communications (ACS) ILECs,[12] thereby

[9] The Commission's long-established "no barriers" policy also allows "carriers receiving high-cost support 'to invest in infrastructure capable of providing access to advanced services' as well as supported voice services." Carriers should have the flexibility to modernize their networks as the opportunity presents but given the extremely high-cost nature of the areas at issue and limited budget, there should not be an obligation to provide more than voice telephony service at this time in these areas. *Id.* at 17685, para. 64.

[10] The Bureau's list of eligible census blocks does not include any census blocks in New York due to the Commission granting a waiver allowing New York to use CAF II funding in its own statewide broadband program. The Commission has previously contemplated how to reintroduce census blocks that remain unserved via the New York program. *Connect America Fund*, Order, 32 FCC Rcd 968 (2017) ("Any census blocks that do not receive any winning bids through the New York competitive bidding process will be eligible for the nationwide Remote Areas Fund auction if they remain unserved and would otherwise be eligible for the Remote Areas Fund auction at the time the Bureau finalizes the list of census blocks for the Remote Areas Fund auction.").

[11] *Wireline Competition Bureau Releases List and Map of Eligible Census Blocks for the Connect America Phase II Auction (Auction 903),* Public Notice, 32 FCC Rcd 10381, 10381-82 (2017) ("As a general matter, census blocks eligible for the Phase II auction include those in price cap study areas where the price cap carriers declined the statewide offers of model-based support. They exclude census blocks where the price cap carriers accepted the statewide offers; any provider provides service with voice and broadband at speeds of 10/1 Mbps or higher based on FCC Form 477 deployment data; or those located in rate-of-return areas.") (citations omitted). USTelecom acknowledges that there may be partial census blocks that are split between two or more carriers that may fall out of this analysis but believes that these are not statistically significant and recommends not incorporating these census blocks for simplicity and efficiency.

[12] Though the Commission addressed the CAF II broadband obligations and calculation of support for ACS separately from those of the price cap carriers that elected model support, ACS faces the same issue of having unsupported voice telephony ETC obligations in extremely high cost areas. The Commission allowed ACS to choose frozen support in lieu of model-based support but imposed many of the same performance parameters on ACS as on other price cap carriers. *See Connect America Fund*, WC Dkt. No. 10-90, Order, 31 FCC Rcd 12086, 12088 para. 8 (2016) ("The service obligations established today [for ACS] maintain many of the same public interest standards as those established for model-based price cap carriers, but allow flexibility in both buildout locations and the deployment schedule to account for the distinctive geographic and climate challenges of building and providing voice and broadband service in Alaska") (*ACS CAF II Order*). While the Commission held that frozen support would be sufficient for ACS to both extend broadband service to new locations and maintain voice service in the remaining census blocks in its ILEC territory not supported by CAF II, *id*. at 12103, para. 55, ACS has informed the Commission that, while it intended to continue serving all its ILEC service areas, the frozen support would be insufficient to fund areas beyond the prescribed CAF II locations. *See* ACS Comments in WC Dkt. No. 10-90 at 6-11 (filed Aug. 8, 2014) (explaining that the costs to provide voice and broadband in ACS high-cost census blocks greatly exceed the support provided for in the CAM; obligations under frozen support need to be tailored accordingly; *See also* Letter from Karen Brinkmann, Counsel to ACS, to Marlene H. Dortch, FCC, WC Dkt. 10-90 (filed Feb. 3, 2015) (outlining ACS's proposed plan for CAF II support, including voice and broadband service to at least 26,000 locations in qualifying census blocks); Letter from Karen Brinkmann, Counsel to ACS, to

accounting for all price cap ILEC territories within the continental US, Hawaii and Alaska.[13] Post-CAF II Auction, the Commission should remove from this list census blocks that will receive support via the CAF II Auction.[14] The Commission should also remove any census blocks that may be included for which price cap carriers received forbearance from the voice ETC obligation, to the extent they were included.[15] Finally, the Commission should eliminate census blocks where a price cap carrier is no longer an ETC because the carrier is ineligible to receive funding in these areas.[16] The resultant list will contain all high cost and extremely high

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Marlene H. Dortch, FCC, WC Dkt. 10-90 (filed Sept. 18, 2015) (same); Letter from Leonard A. Steinberg, ACS, to Marlene H. Dortch, FCC, WC Dkt. 10-90 (filed Dec. 11, 2015) (Alaska Communications' CAF II plan anticipated that all frozen support would be used in serving the proposed 26,000 unserved locations, and none would be available for continued voice service in extremely-high census blocks).

[13] This method would also necessarily include Micronesian Telecom to the extent extremely high cost census blocks remained in its territory because they accepted the offer of CAF II model support as well. The complete list of price cap ILECs that would be affected by this proposal is: ACS, AT&T, CenturyLink, Cincinnati Bell, Consolidated, Frontier, Hawaiian Telecom, Micronesian Telecom, Verizon, and Windstream, though not all are USTelecom members. This proposal does not apply to Puerto Rico or the US Virgin Islands, which will receive its own high cost funding through the Uniendo a Puerto Rico Fund and the Connect USVI Fund. *See The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143, FCC 18-57 (rel. May 29, 2018).

[14] In census blocks that receive support from the CAF II Auction, price cap carriers will no longer have ETC voice obligations but will continue to be ETCs and thus required to participate in the Lifeline program. *See 2014 Order* 29 FCC Rcd at 15664, para. 52 (forbearing from a price cap carrier's ETC voice obligations when another ETC receives funding to serve that area).

[15] *See id*. ("We do not address at this time and in particular do not forbear from enforcing the section 214(e) obligation of a price cap carrier to offer voice telephony services in extremely high-cost areas where it is not receiving support, except for the two circumstances expressly described herein: those extremely high-cost census blocks served by an unsubsidized competitor or where the price cap carrier is replaced by another ETC selected through a competitive bidding process that is required to offer voice and broadband services to fixed locations that meet the Commission's public service obligations."). It is not apparent that census blocks for which price cap carriers received this forbearance would be included in the list of CAF II Auction-eligible areas but USTelecom includes this element out of an abundance of caution to correctly size the list of census blocks at issue. Alaska Communications was granted forbearance from its requirement to provide voice services to the same extent as the price cap carriers accepting model-based support: in low-cost census blocks, in high-cost census blocks served by an unsubsidized competitor (except for locations in partially-served census blocks where ACS chooses to deploy CAF II-qualifying voice and broadband services), and in high-cost census blocks where a competitor receiving high-cost support is providing qualifying voice and broadband services. *ACS CAF II Order*, 31 FCC Rcd at 12098, para. 40.

[16] AT&T has relinquished all or part of its state ETC designations outside of CAF Phase II areas in 14 states: Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin. Order, *In re Implementation of the Universal Service Requirements of Section 254 of the Telecommunications Act of 1996,* Docket No. 25980 (Ala. P.S.C. March 9, 2017); Consummating Order, Order No. PSC-2017-0329-CO-TP, *In re Request for relinquishment of partial eligible telecommunications carrier status, by BellSouth Telecommunications, LLC d/b/a AT&T Florida*, Docket No. 20170082-TP, (F.P.S.C August 16, 2017); Order Approving Partial Relinquishment of ETC Designation, *In Re: Application of BellSouth Telecommunications, Inc. d/b/a AT&T Georgia for Designation as an Eligible Telecommunications Carrier*, Docket No. 8529 (adopted by Georgia P.S.C. September 6, 2017); Order of the Commission, *In the Matter of the Petition of Indiana Bell Tel. Co. Inc. d/b/a AT&T Indiana for Partial Relinquishment of Its Designation as an Eligible Telecommunications Carrier in Indiana*, Cause No. 41502 ETC 39 S1 (Ind. Util. Reg. Comm'n, Nov. 21, 2017); Order, *Petition of AT&T Kentucky for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas,* Case No. 2017-00416 (Ky. PSC Mar. 23, 2018); Order No. S-34632, *In re: Petition of AT&T Louisiana for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in*

cost census blocks for which price cap carriers will continue to have an ETC obligation to provide voice telephony service (*i.e.*, "Eligible Areas").

Method of Allocation

USTelecom proposes for the Commission to allocate a set budgeted amount (discussed below) across all Eligible Areas using the Connect America Cost Model (CACM).[17] The Commission should use the CACM to allocate voice support on a nationwide basis and without regard to current price cap ILEC territory boundaries or legacy funding mechanisms tying certain levels of support to certain states. Using this methodology will produce the most rational system of allocation that is not based upon artificial legacy mechanisms; the highest cost locations nationwide will be allocated as such and will receive more support with the lower cost locations receiving proportionately less. This will also avoid anomalous circumstances that existed in

Specified Areas, Docket No. S-34632 (La. Pub. Serv. Comm'n, Nov. 3, 2017); Order Confirming AT&T Mississippi's Relinquishment of its Eligible Telecommunications Carrier Designation in Specified Areas, *In re Verified Petition of AT&T Mississippi for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in Specified Areas*, Docket No. 2016-UA-213 (Miss. P.S.C. Apr. 13, 2017); Order Confirming AT&T Missouri's Relinquishment of its Eligible Telecommunications Carrier Designation, *In the Matter of Southwestern Bell Telephone Company, d/b/a AT&T Missouri's Notice of Relinquishment of its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. §214(e)(4) and Notice of Withdrawal From State Lifeline and Disabled Programs*, File No. IO-2017-0132 (Mo. P.S.C., Jan. 11, 2017); Order Confirming AT&T's Relinquishment of ETC Designation, North Carolina Utilities Commission, *In the Matter of Petition of AT&T North Carolina Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas*, Docket Nos. P-55, Sub 1934; P-100, Sub 133C (N.C.U.C. June 14, 2017); Final Order Granting Relinquishment of ETC Designation, *Application of Southwestern Bell Tel. Co. d/b/a AT&T Oklahoma for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation*, Order No. 661226 in Cause No. PUD 201600455 (Ok. Corp. Comm'n. Feb. 22, 2017); Order, *Petition of BellSouth Telecommunications, LLC d/b/a AT&T South Carolina for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas*, Docket No. 2017-109-C (S.C. P.S.C. May 3, 2017); Order Confirming AT&T Tennessee's Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas, *In re Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in Specified Areas*, Docket No. 16-00123, at 4 (Tenn. Reg. Auth. Mar. 24, 2017); Notice of Approval, *Petition of AT&T Texas to Relinquish its Eligible Telecommunications Carrier Designation in Specified Areas and Notice of Termination of Eligible Telecommunications Provider Designation*, Docket No. 47687 (January 12, 2018); and Final Decision, *Request by Wisconsin Bell, Inc. d/b/a AT&T Wisconsin, to Relinquish its Status as an Eligible Telecommunications Carriers in Certain Parts of its Service Territory*, Docket No. 6720-TI-225 (Wis. P.S.C. March 13, 2017).

AT&T has ETC relinquishment filings pending in four states: Kansas, Illinois, Michigan and Ohio. *Petition of Illinois Bell Telephone Company for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas*, Docket No. 18-0874 (filed April 24, 2018); *Application of Southwestern Bell Telephone Company d/b/a AT&T Kansas for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas, and Notice of Intent to Cease Participation in the Kansas Lifeline Services Program*, Docket No. 17-SWBT-158-MIS (filed Oct. 27, 2016); *Petition of AT&T Michigan for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas*, MPSC Case No. U-20064 (filed Jan. 26, 2018); *Petition of AT&T Ohio for Order Confirming Relinquishment of Eligible Telecommunications Carrier Designation in Specified Areas*, Case No. 17-1948-TP-UNC (filed Sept. 7, 2017).

[17] *See* CostQuest Associates, Connect America Cost Model (A-CAM) Model Methodology, 5 (2014) available at https://transition.fcc.gov/wcb/Model%20MethodologyACAM10v3.pdf ("CACM estimates the cost to provide voice and broadband-capable network connections to all locations in the country.").

previous legacy support mechanisms where certain states may have received significantly more or less support for reasons that are no longer relevant.

While the goal is to produce a funding allocation that distributes support proportionate to the cost of maintaining voice service in these areas, USTelecom proposes to also include a per-line cap on the amount of support allocated to a location. In doing so, the Commission can avoid having a select few of the highest of the high-cost locations being allocated a share of the total fund that leaves little for the rest of the eligible areas. Though the CACM is a very efficient model, it is a model nonetheless and its costs for any given location cannot be certified; it would be inequitable to allocate substantial portions of the budget to a tiny fraction of the Eligible Areas when absolute costs are not even known. For allocation purposes, USTelecom suggests that the Commission set the per-line funding support cap at $250 per-line per-month in the model. This per-line cap amount is consistent with per-line caps that the Commission has previously adopted in other high cost contexts,[18] and given the limited budget we propose below, it is unlikely that any particular location will be actually funded at that amount; it is a proportionality limiter for the distribution.

Budget

USTelecom proposes that the Commission dedicate $105 million of High Cost USF support per year as the starting budget to support the voice telephony service obligations of all price cap ILECs that were eligible for CAF Phase II model support and also ACS's territory as the price cap ILEC in Alaska. This amount equals the $95 million of frozen support currently distributed to price cap carriers and $10 million of additional support to account for ACS's participation in the program.[19]

In addition to the $105 million base budget, USTelecom proposes a transition mechanism for those companies that have been previously receiving frozen support. Due to the proposed method of allocation, which does not base future support on historical support amounts for individual companies, certain carriers that have been receiving frozen support pending the CAF II auction may experience a significant support decline in a state. In accordance with the Commission's general policy against flash cuts,[20] USTelecom proposes a three-step phase in of the difference between the current frozen support and the support to be distributed under this proposal.

[18] *See* 47 C.F.R. § 54.302 (setting the monthly per-line limit on universal service support at $250 effective July 1, 2014); *see also USF-ICC Reform Order*, 26 FCC Rcd at 17765, para. 274 ("We find that support drawn from limited public funds in excess of $250 per-line monthly . . . should not be provided without further justification.).

[19] *See* USAC, FCC Filings, Frozen High Cost Support Projected by State by Study Area (3Q 2018), https://www.usac.org/about/tools/fcc/filings/2018/q3.aspx. This amount does not include the frozen support associated with census blocks for which a price cap carrier has relinquished its ETC designation or elected not to accept frozen support.

[20] *See, e.g., USF-ICC Reform Order*, 26 FCC Rcd at 17830, para. 513 ("We find that a transition is desirable in order to avoid shocks to service providers that may result in service disruptions for consumers.").

The transition proposal is similar in concept to the one adopted in the Mobility Fund Phase II (MF-II) proceeding[21] and would work as follows:

First determine the "Residual Frozen Support" amount (calculated at the state level):

1. Calculate the total reserve for the auction-eligible census blocks in each price cap ILEC's service territory in the state.
2. Calculate the total reserve for the Eligible Areas to be supported under this voice support proposal (i.e., the supported areas in each price cap ILEC's service territory described above).
3. Divide the result from step (2) by the result from step (1), thereby creating a ratio.
4. Multiply the ratio by the pre-auction frozen support amount that the price cap ILEC received in that state.
5. The result is the "Residual Frozen Support."

Second, determine the transition's applicability and amount (calculated at the state level):

1. Calculate the new voice support amount for each price cap ILEC using the national budget and national allocation mechanism as described above.
2. If the Residual Frozen Support is less than the new support amount, then the price cap ILEC will receive the new support amount.
3. If the Residual Frozen Support is greater than the new support amount, then the price cap ILEC will receive the new support amount plus a transitional amount.
4. The transitional amounts will be as follows:
    a. Year 1: The new voice support amount + two-thirds of the difference between Residual Frozen Support and the new voice support amount.
    b. Year 2: The new voice support amount + one-third of the difference between Residual Frozen Support and the new voice support amount.
    c. Years 3+: The new voice support amount only applies.

Example:

- Suppose that:
    - The total statewide reserve for the price cap ILEC is $30 million
    - The statewide reserve for the remaining census blocks in the price cap ILEC's service territory is $10 million
    - The price cap ILEC's pre-auction frozen support is $15 million in that state.
    - The new support amount for the price cap ILEC in the state is $2 million.
- Then, Residual Frozen Support = (10/30) * $15 million = $5 million per year.
- The transition would apply because the $5 million in Residual Frozen Support is greater than the $2 million of the new support amount.

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[21] *Connect America Fund; Universal Service Reform – Mobility Fund*, WC Dkt. No. 10-90; WT Dkt. No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2184 para. 74 (2017). ("For the first 12 months thereafter, phase-down support shall be 2/3 of the legacy support for each CETC associated with that area. For the next 12 months, phase-down support shall be 1/3 of the legacy support for each CETC associated with that area. All legacy support shall end thereafter.") (*MF-II Order*).

- The 3-step transition would work as follows
  - Year 1 support = $2M + (2/3) * ($5M-$2M) = $4 million
  - Year 2 support = $2M + (1/3) * ($5M-$2M) = $3 million
  - Year 3 support = $2 million

In order to avoid potential disruptions to the overall high cost budget, USTelecom proposes that the maximum amount of transition support available (above the new support amount total budget of $105 million) should be $35 million. Thus the maximum budget impact would be $140 million in Year 1, phased down as described in Year 2, and $105 million in Years 3 and beyond.

The proposed budget is modest for the nature of the territories involved as well as previous actual and estimated support for these areas. This amount is significantly less than the over $1 billion annual support that then-Commissioner Pai recognized was potentially required for price cap ILECs to serve these areas, even when USTelecom discounts the total to reflect only the provision of voice services.[22]

The proposed budget also fits within the Commission's overall high cost USF budget without adding additional strain. In 2011 the Commission set the Remote Areas Fund (RAF) budget at $100 million per year, which means that the Commission has and continues to set aside $100 million annually, though it has not yet distributed support under that Fund.[23] Theoretically, the RAF was designed to provide broadband to some of the exact areas at issue in this proposal (extremely high cost areas that were not eligible for the CAF Phase II program); however one key budgetary difference is that the RAF was designed with satellite service in mind and without the significant operational costs associated with a terrestrial service.[24]

Further, the effects on the budget will be limited because USTelecom expects that the support required will shrink over time due to other Commission initiatives. The Commission is concurrently expanding voice and broadband services in other ways, particularly through its MF-II proceeding, which may in the future obviate the need for the funding requested today. Through MF-II, the Commission set the goal of "target[ing] universal service funding to coverage gaps"[25] and using "geographic area" of "square miles" – not just road segments – as the

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[22] *2015 Forbearance Order*, 31 FCC Rcd at 6243-44, Statement of Commissioner Ajit Pai, "Nor can I support the unfunded mandate the Order adopts for price cap carriers in remote areas. With respect to these costly-to-serve areas, the Communications Act imposes telephone-service obligations on incumbent local exchange carriers. Those carriers often lack the legal means to recover all the associated costs from their customers. To make up that difference, the Communications Act directs the Commission to offer those carriers "sufficient" universal service support. This raises the question: In this case, what is 'sufficient'? The Commission's own model estimates that it should cost price cap carriers more than $1,488,789,806 each year to serve these remote areas and that the total expected revenue for voice and broadband service in such areas is only $393,562,260. That leaves price cap carriers short $1.095 billion a year, or with less than one-third the revenues they need to cover the cost of service in remote areas. This mismatch makes obvious that the support isn't 'sufficient' under the Act."

[23] *USF-ICC Reform Order*, 26 FCC Rcd at 17830, para. 513.

[24] *Id.* at para. 536.

[25] *MF-II Order*, 32 FCC Rcd at 2156 para. 14.

metric for assessing mobile coverage.[26] The Commission has already concluded that "it would not make sense to fund a mobile provider in an eligible area through MF-II and fund yet another such provider (or possibly the same one) in that same area in the RAF. Accordingly, we decide that we shall structure the RAF so as not to award support to a mobile provider in any area where we have awarded MF-II support."[27] Therefore, the MF-II carriers will have the capability and requirement to provide voice services in these areas as the ETC, which will remove the ILEC's funding to be distributed under this program and result in forbearance from ETC voice obligations as contemplated by the Commission.[28] Likewise, when the Commission conducts the CAF III Auction, establishes the RAF to provide broadband support in these areas, or price cap carriers elect to relinquish their ETC designations in these areas, funding under this proposal in such areas will no longer be necessary as the price cap carrier either will receive forbearance from the ETC voice obligation or will have relinquished its ETC designation.

Offer of Support

USTelecom proposes that once the Commission sets the budget and allocates the funding it should offer each affected price cap carrier the opportunity to accept or decline the support available in its territory on a state-by-state basis.[29] Carriers that decline the offer of support are not relieved of any existing ETC voice obligations but, of course, can pursue ETC relinquishments. The Commission should amend its current Form 481 to allow a carrier accepting voice support to certify that it is offering voice telephony service at reasonable rates throughout the supported area. While the length of the term of support is currently undefined, the events noted above will substantially and rapidly limit the ongoing nature of this interim voice fund.

Conclusion

USTelecom's proposal is a simple, efficient, and effective method for determining how to properly support areas where price cap ILECs remain responsible for providing voice telephony service in areas where it is extremely uneconomic to do so absent a universal service support mechanism. We urge the Commission to reaffirm its commitment to basic voice communications for American consumers in high cost and extremely high cost areas by adopting this proposal without delay.

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[26] *Id.* at 2168-69, para. 41.

[27] *Id.* at 2207, para. 135.

[28] *See 2014 Order* at para. 52.

[29] This state-by-state acceptance process (as opposed to offering carriers support on a study-area basis) is consistent with CAF II's offer of model-based support. *See USF-ICC Reform Order*, 26 FCC Rcd at 17725, para. 156.

Please contact me with any questions.

Respectfully submitted,

By: ______________________

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